

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Global Expedited Package Services 3 (MC2010-28)  
Negotiated Service Agreement

Docket No. CP2015-63

PUBLIC REPRESENTATIVE COMMENTS ON  
POSTAL SERVICE NOTICE CONCERNING ADDITIONAL  
GLOBAL EXPEDITED PACKAGE SERVICES 3  
NEGOTIATED SERVICE AGREEMENT

(May 13, 2015)

The Public Representative hereby provides comments pursuant to Order No. 2471.<sup>1</sup> In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of filing an additional Global Expedited Package Services (GEPS) 3 agreement (Agreement).<sup>2</sup>

The Postal Service's Notice includes a public (redacted) version of the Agreement, a certified statement of compliance required by 39 C.F.R. § 3015(c)(2), and a public version of Governors' Decision No. 08-7. The Postal Service also filed under seal an unredacted version of Governor's Decision No. 08-7, the Agreement, and a supporting financial model estimating the contract value.

Agreements within the GEPS 3 product offer incentive pricing to mailers that send items to foreign destinations using Priority Mail Express International (PMEI), Priority Mail International (PMI), or both. Notice at 4. Prices offered pursuant to an agreement may differ from mailer to mailer depending upon the volume or postage

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<sup>1</sup> PRC Order No. 2471, Notice and Order Concerning Additional Global Expedited Package Services 3 Negotiated Services Agreement, May 6, 2015.

<sup>2</sup> Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, May 5, 2015 (Notice).

commitments made by such mailers. *Id.* To qualify for an agreement, a mailer “must be capable, on an annualized basis, of paying at least \$200,000 in international postage to the Postal Service.”<sup>3</sup>

Prices and classifications not “of general applicability” for GEPS agreements were previously established by Governors’ Decision No. 08-7.<sup>4</sup> In Order No. 86, the Commission established GEPS as a product on the competitive product list.<sup>5</sup> The Commission subsequently approved the addition of the GEPS 3 product to the competitive product list (MC2010-28), and included within that product a GEPS 3 agreement (CP2010-71) that would serve as the baseline agreement for functional equivalence comparisons with future agreements.<sup>6</sup> Since the addition of the GEPS 3 product to the competitive product list, the Commission has determined that many additional GEPS 3 agreements were functionally equivalent to the baseline agreement and should be included in the GEPS 3 product (MC2010-28).

The Agreement with the mailer is a new GEPS 3 agreement. The effective date of the Agreement will be established by Postal Service notice to the mailer, but not later than 30 days, after receiving all regulatory approvals. Notice, Attachment 1 at 3 (Article 11). The Agreement is to remain in effect for one calendar year from the effective date, unless terminated sooner. *Id.*

The Postal Service states that the Agreement is functionally equivalent to the baseline agreement and is in compliance with the requirements of 39 U.S.C. § 3633. Notice at 7. The Postal Service therefore states that the Agreement “should be added to the GEPS 3 product grouping.” *Id.*

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<sup>3</sup> Notice of the United States Postal Service of Minor Classification Change, Docket No. MC2012-8, January 30, 2012, at 3, showing conforming changes to the Mail Classification Schedule, 2510.3.1.

<sup>4</sup> See United States Postal Service Notice of Filing Redacted Copy of Governors’ Decision No. 08-7, Docket No. CP2008-5, July 23, 2008.

<sup>5</sup> See PRC Order No. 86, Order Concerning Global Expedited Package Services Contracts, Docket No. CP2008-5, June 27, 2008.

<sup>6</sup> See PRC Order No. 503, Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, Docket Nos. MC2010-28 and CP2010-71, July 29, 2010.

## COMMENTS

The Public Representative has reviewed the Postal Service's Notice, the Agreement, and supporting financial model filed under seal accompanying the Notice. Based upon that review, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement. In addition, the negotiated prices in the Agreement should generate sufficient revenues to cover costs.

*Functional Equivalence.* The Postal Service asserts that the Agreement "shares similar cost and market characteristics . . . [and the] functional terms of the contract at issue are the same as those of the contract that is the subject of Docket No. CP2010-71, which serves as the baseline agreement for the GEPS 3 product grouping." *Id.* at 3. However, the Postal Service identifies differences between the Agreement and the GEPS 3 baseline agreement. *Id.* at 4-7. Most of these differences consist of changes to contract terms and are similar to those included in other recent GEPS 3 agreements, or are specific to the customer (*i.e.*, customer name, address, and identification of customer's representative to receive notice).<sup>7</sup> The Postal Service maintains that these differences do not affect either the fundamental service the Postal Service is offering or the fundamental structure of the Agreement. *Id.* at 7.

The Public Representative's review of the financial model reveals that the Agreement features similar cost and market characteristics to the baseline agreement as both agreements involve the PMEI and/or PMI shipping services. Therefore, the Agreement is functionally equivalent to the baseline agreement and should be added to the GEPS 3 product.

39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

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<sup>7</sup> Compare to Notice at 4-7, and Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, Docket No. CP2015-8, October 31, 2014, at 4-7.

As presented, the Postal Service's financial model does not directly address whether the addition of the Agreement to the GEPS 3 product will result in the product as a whole covering costs as required by 39 U.S.C. § 3633(a)(2). However, the Postal Service's financial model indicates that the negotiated rates in the Agreement will generate sufficient revenues to cover its attributable costs. The Public Representative notes that in the FY 2014 Annual Compliance Determination (ACD) Report, the Commission determined that the GEPS 3 product covered costs. 2014 ACD at 78. Therefore, the addition of the Agreement to the GEPS 3 product should not cause the product's cost coverage to fall below 100 percent. As a result, the addition of the Agreement to the GEPS 3 product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2), and should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Moreover, the GEPS 3 product should improve the likelihood that competitive products as a whole contribute an appropriate share to the Postal Service's institutional costs, consistent with 39 U.S.C. § 3633(a)(3).

Nevertheless, the Public Representative observes that the projected cost coverage for the Agreement presented in the financial model is modest. This reflects the fact that all volumes are concentrated in one country price group and a few weights cells within that group. Those weight cells have the lowest cost coverages compared to all other country group weight cells. To the extent actual costs during the term of the Agreement exceed the estimated costs presented by the Postal Service in its financial model, the cost coverage for the Agreement may decrease—possibly below 100 percent.

This concern is mitigated somewhat by the fact that the Postal Service must file revenue and cost data for the Agreement in future Annual Compliance Reports. This data will permit the Commission to annually review the financial results for the Agreement in its Annual Compliance Determination (ACD) for compliance with 39 U.S.C. § 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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